

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DERRIOUS DE'CARLOS TAYLOR

PETITIONER

VS.

CIVIL ACTION NO. 3:17-cv-466-WHB-JCG

BILLY SOLLIE

RESPONDENT

OPINION AND ORDER

This cause is before the Court on the Report and Recommendation ("R and R") of United States Magistrate Judge John C. Gargiulo. After considering the R and R¹, the other pleadings in this case, as well as relevant authorities, the Court finds the R and R should be adopted in its entirety.

I. Discussion

On June 13, 2017, Derrious De'Carlos Taylor ("Taylor"), who was then a pre-trial detainee at the Lauderdale County Detention Center ("LCDC"), filed a Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 in this Court² alleging that his constitutional rights were being violated based on the failure of the State to timely try him on charges including possession of methamphetamine

¹ The parties were required to file objections to the R and R on or before July 2, 2018. No objections were filed.

² As Taylor is proceeding pro se, the allegations in his pleadings have been liberally construed. See United States v. Wilkes, 20 F.3d 651, 653 (5th Cir. 1994).

and marijuana with intent to distribute within a correctional facility. Respondent, Billy Sollie ("Sollie"), moved to dismiss the Petition on the grounds it was moot. The claim of mootness was based on the fact that Taylor had pleaded guilty and was sentenced on all outstanding state law charges shortly after the Petition had been filed. See Attachment to Mot. to Dismiss [Docket No. 15]. Taylor did not respond to the Motion to Dismiss, and did not respond to the subsequent Order, see Show Cause Order [Docket No. 14], by which he was commanded to show cause for his having failed to respond to that Motion.

On June 12, 2018, United States Magistrate Judge John C. Gargiulo entered a Report and Recommendation ("R and R") recommending that Sollie's Motion to Dismiss be granted because the Court could not grant the relief requested by Taylor in his Petition. See R and R [Docket No. 18], 4-5 (explaining that the Court could not grant Taylor's request for a speedy trial because the requested relief had been rendered moot by his having pleaded guilty on all previously pending state charges).³

The Court has reviewed the R and R, to which no objections were filed, as well as the Docket and other pleadings in this case.

³ To the extent Taylor's Petition sought the dismissal of the state court charges against him, the Court likewise could not have granted this relief. See e.g. Brown v. Estelle, 530 F.3d 1280, 1283 (5th Cir. 1976) (explaining that relief in the form of dismissing a state court indictment or preventing the prosecution of state criminal charges is generally not obtainable through federal habeas corpus).

After review, the Court agrees that Taylor's Petition should be dismissed for the reasons stated by Judge Gargiulo. Accordingly, the Court will adopt Judge Gargiulo's R and R recommending the granting of Sollie's Motion to Dismiss, and the dismissal of this case.

For the foregoing reasons:

IT IS THEREFORE ORDERED that the June 12, 2018, Report and Recommendation of United States Magistrate Judge John C. Gargiulo [Docket No. 18], is hereby adopted as the ruling of this Court.

IT IS FURTHER ORDERED that the Motion of Respondent to Dismiss [Docket No. 13] is hereby granted.

A Final Judgment dismissing this case shall be entered this day.

SO ORDERED this the 17th day of July, 2018.

s/ William H. Barbour, Jr.
UNITED STATES DISTRICT JUDGE